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From:

Sent: Friday, July 01, 2011 12:20:27 PM

To:

Cc:

Subject: RE: Amended TEFRA 1065 filed after 3 years

The adjustments are subject to the TEFRA partnership procedures for two reasons. Section 6233 mandates that, if a TEFRA partnership return is filed, then the TEFRA procedures apply even if it is ultimately determined (through AAR procedures or otherwise) that no TEFRA partnership exists. Secondly, if a partnership interest is held through a nominee, disregarded entity or sham entity, the small partnership exception to the TEFRA procedures does not apply. Rev. Rul. 2004-88. The fact that amended returns were filed showing the ultimate owners rather than their nominees does not change the applicable procedure.

If the 1040 statutes are open we can still issue FPAA's. Of if the tax has already been paid, we don't have to do anything.